



DAVEY'S Locker



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Voluntary disclosure programmes

Reflections—past & the future

by Tony Davey

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Human nature, being prone to procrastination, resulted in a predictable, last-minute panic to lodge applications for the tax and exchange control voluntary disclosure programme (VDP) before the deadline of 31 October, despite the twelve-month lead-in period.

My experience in liaising with both the SARS and SARB VDP units on behalf of applicants was positive and constructive. Turn-around times for approval with the SARB was two to three weeks. SARS, being naturally more inundated, and given the complexity of the tax laws, took somewhat longer, averaging some months.

Ironically, rather than possible SARS or SARB audits, the greatest motivator amongst applicants, in my experience, was the fear of FICA-monitoring by the banks, particularly of remittances from abroad.

Permanent VDP

A permanent VDP, albeit somewhat less generous than the past one, is instituted in sections 227 to 233 of the Tax Administration Bill, soon to be enacted. Relief is granted to natural and juristic persons under all

'tax Acts' (except the Customs and Excise Act), in the form of, first, freedom from criminal prosecution, and, secondly, lesser penalties for 'understatement' offences and full relief for administrative noncompliance.

As distinct from the past VDP, interest charges are levied, since SARS is rightly no longer in the business of granting taxpayers interest-free loans. Naturally, the actual taxes remain due, although payment terms and conditions are negotiated, being evidenced in a written agreement.

At a tax-philosophical level, VDP is a tax-compliance risk, in that law-abiding taxpayers might perceive that errant-taxpayers go unpunished. On the other hand, given SARS's limited resources to audit all taxpayers, it is practical from a tax-collection perspective, in that errant taxpayers come forward voluntarily.

On balance I incline to favour a permanent VDP, since it creates certainty of outcome in advance, being an objective result, rather than being dependent upon the exercise by SARS of a subjective discretion.

